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Serial No. 09/604,449

Docket No. JBP-508

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V. Claim 44, drawn to a method of depositing a benefit agent, classified in class 510, subclass 510.

The Examiner asserts that the inventions are distinct each from the other because allegedly the Inventions of I-V are unrelated. Specifically, the Examiner argues that Groups II and III recited mutually exclusive steps; Groups IV and V recited different ingredients; II and III are drawn to making emulsions; and Groups IV and V are drawn to application of compositions; and Group I does not require the ingredients recited in Groups II-V.

The Examiner has also required further restriction to specific water dispersible components and specific esters should Group I be elected. Applicants respectfully traverse this requirement. Nevertheless, to be fully responsive Applicants elect hexylene glycol as the water dispersible component and pentaerythritol tetraoctanoate as the ester. With respect to the water dispersible component, Applicants respectfully request that the election requirement be modified such that Examination include each of the water dispersible components recited in claim 4 or at least be expanded to include hexylene glycol and polyethylene glycol-6 caprylic/capric glycerides. Further with respect to the ester, Applicants respectfully request that the election requirement be expanded to include the four esters recited in claim 12 or at least pentaerythritol tetraoctanoate and trimethylolpropane trioctanoate. Clearly, a search of the specific water dispersible components and esters recited in claims 4 and 12 would not be an undue burden on the Examiner.

Applicants respectfully traverse the restriction and apparent election of species requirement for the following reasons. M.P.E.P. § 803 states that the two criteria for a proper requirement for restriction between patentably distinct inventions are 1) the inventions must be independent or distinct as claimed, and (2) there must be a serious burden on the Examiner if restriction is not required. Here, the Examiner has not shown that there would be a serious

burden if restriction were not required. Accordingly, Applicants respectfully request the restriction requirement and election requirement be withdrawn, and all pending claims be examined. Applicants await an action on the merits.

If there are any other fees due in connection with the filing of this response, please charge the fees to our Deposit Account No. 10-0750/JBP-508/EMH. If a fee is required for an Extension of time 37 C.F.R. § 1.136 not accounted for above, such an extension is requested and the fee should also be charged to our Deposit Account.

Respectfully submitted,



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